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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 **Amitabho Chattopadhyay,**
11 *et. al.*
12 Plaintiffs,
13 *v.*
14 **BBVA Compass Bancshares, Inc.,**
et. al.,
Defendants.

Case No. 3:19-CV-01541-JST

**DECLARATION OF TOMMY
NICHOLAS IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
MOTION TO DISMISS**

Trial Date: None set.
Date Action Filed: December 20, 2017

15 I, Tommy Nicholas, declare as follows:

16 1. I am over 18 years old and I make this declaration on the basis of my personal
17 knowledge of the facts set forth below, with the exception of whichever facts may be stated on
18 information and belief. Nonetheless, I believe those facts to be true. If called upon to testify, I
19 could and would testify competently in support of each and every single fact stated herein.

20 2. I am the CEO of Alloy.co, a company that helps banks in the United States make instant
21 decisions about people that apply for their accounts online. This includes fraud prevention,
22 KYC/BSA/AML compliance, underwriting, and other factors. Alloy has raised \$17.5m in venture
23 capital and works with many of the largest digital banks in the country, including the largest
24 branchless bank in the United States.

1 3. There is no difference between a citizen and a non-citizen from a security perspective
2 when vetting an applicant online. It is relatively simple to prevent clients from categorically
3 denying non-citizens bank accounts based on their citizenship status alone. There are only a few
4 ways to identify an applicant's citizenship or residency status, such as whether the tax identifier
5 they provided is an ITIN vs. an SSN. Alloy prevents our clients from using any of those methods
6 as a standalone rule to deny an applicant a product. In the case where the identifier provided is an
7 SSN, there is no distinction made between a citizen and a non-citizen whatsoever, because the
8 two categories of individuals are identical from an identity verification perspective. Nonetheless,
9 SSNs and ITINs are equally verifiable by third-party data sources, so non-citizens are equally
10 able to prove their identity via a government ID number as citizens are.

12 4. Additionally, the use of SSN verification alone to prove an applicant's identity is long
13 understood to be an ineffective verification method, as the majority of American citizens' SSNs
14 have been breached in the various credit bureau data breaches; in fact, non-citizens, who are more
15 likely to have more recent SSN numbers, are in fact less likely to have suffered these data
16 breaches.

18 5. As such, verification using a broad set of data, including phone carrier data, digital
19 identity data, and more, is considerably more effective. None of that data has a relationship to
20 citizenship, and as such citizens and non-citizens are equally vettable. In addition, some non-
21 citizens have SSNs and are in every way indistinguishable from citizens unless they "out"
22 themselves as non-citizens explicitly. For these individuals, I am unable to even think of what the
23 argument that they are more difficult to vet would be.

25 6. There is no factual basis to the claim that non-citizens are more likely to commit more
26 financial fraud than citizens, controlling for other factors such as income. The majority of fraud,
27 especially in digital banking, comes from fraudulent actors using stolen identities to get bank
28

1 accounts and then using those bank accounts to commit fraud. The goal of the fraudulent actor is
2 to use an identity that is likely to be "approved" for the bank account, and almost by definition
3 this means that using a non-citizen's identity would be a mistake. The topic of this case is the
4 reason why, as those identities are more likely to be denied access to a bank account. There are
5 no ID verification solutions I know of that take the same stance on non-citizens as Alloy does.
6 However, no ID verification solutions that I know of use citizenship as an explicit variable to
7 deny non-citizens financial products. It is simply not something that is relevant for identity
8 verification and therefore not something most identity verification companies take into
9 consideration either way.
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12 Dated: August 6, 2019

TOMMY NICHOLAS

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14 By: /s/ Tommy Nicholas
15 Tommy Nicholas

16 Declarant
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